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RECENT DECISIONS

ADOPTION—RIGHT OF INHERITANCE FROM SECOND ADOPTIVE PARENTS.—Upon the death of the parents of a child, the child was adopted by a man and his wife. Upon the death of the adoptive mother, the child was adopted a second time with the consent of the first adoptive father. The first adoptive father died intestate and the child claimed the right to inherit certain property owned by him. *Held*, the second adoption cut off all relations between the adopted child and his first adoptive parents, and the child could not inherit the property. *In re Klapp's Estate* (Mich.), 164 N. W. 381. See NOTES, p. 349.

CONFLICT OF LAWS—INCAPACITY OF MARRIED WOMEN TO CONTRACT—WHAT LAW GOVERNS.—A married woman domiciled in Texas entered into a contract as guarantor for her husband in Illinois. Under the laws of Illinois the contract was valid, but the law of Texas declared such contracts void. Suit was brought on the contract in Texas. *Held*, the *lex fori* will be substituted for the *lex celebrationis* of the contract. *Union Trust Co. v. Grosman*, 38 Sup. Ct. 147. See NOTES, p. 345.

CONFLICT OF LAWS—STATUTE OF FRAUDS—PROMISE TO PAY THE DEBT OF ANOTHER.—An oral contract to pay the debt of another was made in Idaho, by whose laws the contract was valid and enforceable. Action was brought on the contract in Kansas. The Kansas statute of frauds provided that no action should be brought whereby to charge a party with the debt of another unless it be in writing. *Held*, the contract will not be enforced in Kansas. *Barbour v. Campbell* (Kan.), 168 Pac. 879.

It seems to be a well settled principle that matters respecting the remedy for the breach of a contract depend upon the law of the place where the suit is brought. *Ruhe v. Buck*, 124 Mo. 178, 27 S. W. 412, 46 Am. St. Rep. 439, 25 L. R. A. 178. See 1 VA. LAW REV. 326. But there is a conflict among the courts as to whether the statutes of frauds existing in the various states pertain to the right of the contract or whether they merely govern the remedy for the breach of the contract. This is due partly to the failure to strictly observe whether the language of the particular statute makes the contract void or simply unenforceable. *Leroux v. Brown*, 14 Eng. L. & Eq. 247, 74 E. C. L. 860; *Wolf v. Burke*, 18 Colo. 264, 32 Pac. 427, 19 L. R. A. 792.

The results reached will depend on whether the contract is affected by the statute of frauds in the *locus contractus* or by the statute of the forum. If the *lex loci contractus* provides that certain contracts are void, then a valid contract of that nature can never arise there. On the other hand, if it is the *lex fori* which provides that such contracts shall be void, while under the *lex loci contractus* the contract is good, it will nevertheless be enforced in the forum. *Wolf v. Burke*, *supra*.

Where, however, the *lex loci contractus* provides that no action shall lie on certain contracts, while there is no such limitation by the *lex fori*, there is no reason why the contract should not be enforced by the courts of the forum. *Hall v. Cordell*, 142 U. S. 116. See *Downer v. Chesebrough*, 36 Conn. 39, 4 Am. Rep. 29. But the question which probably gives most trouble is the one involved in the instant case, that is, where the contract is valid and enforceable under the *lex loci contractus* but unenforceable under the *lex fori*. Some courts hold the contract to be unenforceable in the forum, on the ground that the question is one of remedy, and to be governed by the *lex fori*. *Leroux v. Brown*, *supra*. However, the better view seems to be that such contracts are enforceable in the forum, on the ground that the laws of the state, where the contract was made, enter into and form a part of the contract, and should be enforced by the forum as a part of the obligation of the contract, under the doctrine of comity. *Miller v. Wilson*, 146 Ill. 523, 34 N. E. 1111, 37 Am. St. Rep. 186. See *Baxter National Bank v. Talbot*, 154 Mass. 213, 28 N. E. 163; *Cochran v. Ward*, 5 Ind. App. 89, 51 Am. St. Rep. 229; MINOR, CONFLICT OF LAWS, § 210.

CONSTITUTIONAL LAW—DUE PROCESS—RIGHT OF STATE TO PROHIBIT EMPLOYMENT AGENCIES.—The plaintiffs were proprietors of private employment agencies and were engaged in securing employment for parties who paid fees therefor. The people of the state of Washington passed an initiative measure, declaring that it should be unlawful for any employment agent or his representative to take a fee from any person seeking employment, or for furnishing him employment or information leading thereto. The plaintiffs asserted that the above law deprived them of property without due process of law. *Held*, the statute is unconstitutional and void. *Adams v. Tanner*, 37 Sup. Ct. 662.

The right of a state under its police power to regulate and totally prohibit businesses, when such regulations or prohibitions are for the good of the general health, morals or welfare, is unquestioned. But to constitute due process of law, the law must be a reasonable exercise of the police power and not an arbitrary infringement on private rights and property. *Booth v. Illinois*, 184 U. S. 425; *Allgeyer v. Louisiana*, 165 U. S. 578. In *Powell v. Pennsylvania*, 127 U. S. 678, the Supreme Court held that any business which in its operation would naturally tend to defraud the public, although not harmful *per se* was a proper subject for legislative regulation or prohibition. And this case has met with the approval of the courts generally.

In *Rast v. Van Deman & Lewis Co.*, 240 U. S. 342, and another leading stamp case, legislation prohibiting the use of trading stamps was held valid under the police power. Here the element of chance and gambling was prominent in the minds of the court, although it did not definitely state that as its ground for decision. In *Powell v. Pennsylvania*, *supra*, the business legislated against was the manufacture of oleomargerine, which, being an imitation, would tend to defraud the public. But the instant case seems distinguishable from these, because an employment agency, if carried on by honest men, cannot be considered as a fraud